

Administration of Donald J. Trump, 2018

Memorandum on Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise

February 6, 2018

National Security Presidential Memorandum/NSPM-9

Memorandum for the Vice President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Assistant to the President and Chief of Staff, the Director of the Office of Management and Budget, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Assistant to the President for National Security Affairs, the Counsel to the President, the Assistant to the President for Homeland Security and Counterterrorism, the Chairman of the Joint Chiefs of Staff, the Director of the Federal Bureau of Investigation, the Director of the National Security Agency, the Deputy Assistant to the President and National Security Adviser to the Vice President, the Co-Chairs of the President's Intelligence Advisory Board, and the Archivist of the United States

Subject: Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise

Border and immigration security are essential to ensuring the safety, security, and prosperity of the United States. The Federal Government must improve the manner in which executive departments and agencies (agencies) coordinate and use intelligence and other information to identify individuals who present a threat to national security, border security, homeland security, or public safety. To achieve this goal, the United States Government must develop an integrated approach to use data held across national security components. I am, therefore, directing the establishment of a National Vetting Center (Center), subject to the oversight and guidance of a National Vetting Governance Board (Board), to coordinate the management and governance of the national vetting enterprise.

Section 1. Policy. (a) The United States must protect its people from terrorist attacks and other public safety threats. Vetting procedures associated with determining whether individuals pose threats to national security, border security, homeland security, or public safety play a critical role in meeting this obligation. It is the policy of the United States, as authorized and appropriate, to collect, store, share, disseminate, and use accurate and timely biographic, biometric, and contextual information in support of immigration enforcement and border security, including with respect to individuals who (i) seek a visa, a visa waiver, or other immigration benefit, or a protected status; (ii) attempt to enter the United States; or (iii) are subject to an immigration removal proceeding.

(b) Where authorized and appropriate, it is also the policy of the United States to process biographic, biometric, and contextual information, including on a recurrent basis, so as to identify activities, associations with known or suspected threat actors, and other relevant indicators that inform adjudications and determinations related to national security, border security, homeland security, or public safety. These activities should be conducted using all relevant and appropriate Federal Government information, including both intelligence and law enforcement information.

(c) The activities described in this memorandum should always be conducted in a manner that is consistent with the Constitution; Executive Order 12333 of December 4, 1981 (United States Intelligence Activities), as amended; other applicable law and Presidential guidance; and policies and procedures pertaining to:

- (i) the appropriate handling of information about United States persons (as defined in Executive Order 12333) and other individuals protected by United States law;
- (ii) the protection of sources, methods, and activities;
- (iii) privacy, civil rights, and civil liberties; and
- (iv) the protection of other sensitive information.

The coordinated efforts of agencies to conduct all of these activities in the manner described above constitute the national vetting enterprise.

Sec. 2. Implementation. The policy described in section 1 above shall be implemented as follows:

(a) The Secretary of Homeland Security, in coordination with the Secretary of State, the Attorney General, and the Director of National Intelligence, shall establish the Center to support the national vetting enterprise.

- (i) The Center shall coordinate agency vetting efforts to identify individuals who present a threat to national security, border security, homeland security, or public safety. Agencies may conduct any authorized border or immigration vetting activities through or with the Center. Agencies may support these additional activities, provided that such support is consistent with applicable law and the policies and procedures described in subsections (b) and (d) of this section.
- (ii) The Secretary of Homeland Security shall designate a full-time senior officer or employee of the Department of Homeland Security to serve as the director of the Center. The Secretary of State and the Attorney General shall detail or assign senior officials from their respective agencies to serve as deputy directors of the Center.
- (iii) The director shall lead the day-to-day operations of the Center, communicate vetting needs and priorities to other agencies engaged in the national vetting enterprise, and make resourcing recommendations to the Board established pursuant to subsection (e) of this section.
- (iv) Agencies shall provide to the Center access to relevant biographic, biometric, and related derogatory information for its use to the extent permitted by and consistent with applicable law and policy, including the responsibility to protect sources and methods. Agencies and the Center shall, on a consensus basis, determine the most appropriate means or methods to provide access to this information to the Center.
- (v) The Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency shall, on a continuing basis, work together to ensure, consistent with the authorities and available resources of each official's respective agency, that the daily operations and functions of the Center, as determined by the Board, are supported, including through the assignment of legal and other appropriate personnel, and the provision of other necessary resources, consistent with applicable law, including the Economy Act (31 U.S.C. 1535). To the

extent permitted by law, details or assignments to the Center should be without reimbursement.

(vi) The day-to-day operations of the Center shall be executed by appropriate personnel from agencies participating in the national vetting enterprise, to the extent permitted by law, in a manner that adequately facilitates active and timely coordination and collaboration in the execution of the Center's functions. Agencies shall participate in the Center and shall provide adequate physical presence to enable the Center to effectively accomplish its mission. To the extent appropriate, additional agency co-location may be virtual rather than physical. Each agency shall fund its participation in the Center, consistent with the agency's mission and applicable law. There shall be no interagency financing of the Center.

(vii) The Center shall not commence operations until the President has approved the implementation plan described in subsection (g) of this section.

(b) The Center shall enable and facilitate the appropriate use and interagency deconfliction of all relevant information provided to it to inform the adjudication decisions of the national vetting enterprise.

(i) Databases, data sets, knowledge bases, systems, and technical architectures controlled by the Federal Government, including those established pursuant to Presidential guidance or other Federal policies, may be used to support the activities of the Center to the extent permitted by and consistent with the legal and policy frameworks governing their use.

(ii) Information provided to and used by the Center shall be managed and maintained consistent with applicable information security and cybersecurity laws, standards, practices, and procedures.

(c) The Director of National Intelligence, in coordination with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the heads of relevant Intelligence Community (IC) elements, shall establish a support element to facilitate, guide, and coordinate all IC efforts to use classified intelligence and other relevant information within IC holdings in direct support of the Center.

(i) The Director of National Intelligence shall assign a senior official from the Office of the Director of National Intelligence or from another IC element (with the concurrence of the head of that IC element), and in accordance with applicable law, to serve as the head of the support element. This official shall provide day-to-day direction and guidance for the support element's operations in support of and in consultation with the director of the Center. The official shall report to the Director of National Intelligence through an Identity Intelligence Executive.

(ii) The support element shall provide focused, dedicated support to the Center, responding to the Center's needs by ensuring it receives appropriate, standardized, and timely access to biographic, biometric, and related derogatory information relevant to the national vetting enterprise, to the extent permitted by law and consistent with applicable policy, including section 1 of this memorandum, and in accordance with the operational considerations of both the Center and the IC elements supporting it.

(iii) Where appropriate, the personnel and other resources of the support element may be virtually rather than physically co-located at the Center, with such virtual support facilitated on a day-to-day basis by assigned personnel from agencies that are physically present at the Center, as determined in the implementation plan described in subsection (g) of this section.

(d) Consistent with section 1(c) of this memorandum, all activities of the Center and the support element shall be, at all times, conducted in a manner consistent with the Constitution; Executive Order 12333, as amended; other applicable law and Presidential guidance; and policies and procedures pertaining to:

(i) the appropriate handling of information about United States persons (as defined in Executive Order 12333) and other individuals who may have rights under United States law;

(ii) the protection of sources, methods, and activities;

(iii) privacy, civil rights, and civil liberties; and

(iv) the protection of other sensitive information.

(e) The Secretary of Homeland Security, in coordination with the Secretary of State, the Attorney General, the Secretary of Defense, the Director of National Intelligence, and the Director of the Central Intelligence Agency shall establish the Board.

(i) The national vetting enterprise shall act under the guidance of the Board, which shall serve as the senior interagency forum for considering issues that affect the national vetting enterprise and the activities of the Center and its support element. The Board shall adopt appropriate guidance for agencies to enable the successful execution of the national vetting enterprise and make related resource recommendations to agencies providing direct support to the Center. The Board shall also advise the Director of National Intelligence, through the Identity Intelligence Executive, on the IC resources necessary to support the mission of the Center.

(ii) The Board shall consist of six senior executives, one designated by each of the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency.

(iii) The Board may invite other relevant agencies engaged in the national vetting enterprise to participate as required to achieve the national security objectives of the national vetting enterprise.

(iv) The chair of the Board shall rotate annually among the individuals designated from the Department of State, the Department of Justice, the Department of Homeland Security, and the Office of the Director of National Intelligence. The director of the Center shall serve as an observer at Board meetings.

(v) The Board shall endeavor to reach consensus on all matters presented to it, including the scope of the Center's activities. If issues cannot be resolved by consensus, the Board shall refer them to the staff of the National Security Council for consideration, consistent with National Security Presidential Memorandum-4 of April 4, 2017 (Organization of the National Security Council, the Homeland Security Council, and Subcommittees)(NSPM-4), or any successor document.

(vi) To ensure that the activities of the Board and the Center comply with applicable law and appropriately protect individuals' privacy, civil rights, and civil liberties, the Board shall establish a standing Legal Working Group and a separate standing Privacy, Civil Rights, and Civil Liberties Working Group, both of which shall routinely review the activities of the Center and advise the Board. These working groups shall also review the implementation plan described in subsection (g) of this section prior to its submission to the President.

(f) The heads of agencies engaged in the national vetting enterprise shall prioritize, as a vital national security mission, the provision of necessary and appropriate resources to support the national vetting enterprise, including the Center, consistent with their agency's respective authorities and appropriations.

(g) Within 180 days of the date of this memorandum, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency, in coordination with the Director of the Office of Management and Budget, shall, through the Assistant to the President for Homeland Security and Counterterrorism and using the NSPM-4 process, jointly submit to the President for approval a plan to implement this memorandum. The implementation plan shall, at a minimum, address the following:

- (i) the initial scope of the Center's vetting activities;
- (ii) the roles and responsibilities of agencies participating in the Center;
- (iii) the roles and responsibilities of IC elements participating in the Center's support element;
- (iv) the initial categories of information to be used in support of the Center's activities;
- (v) a resourcing strategy for both the Center and its support element, which shall include the initial projected cost and staff required to operate the Center;
- (vi) the relationship between the Center and other relevant United States Government entities and initiatives, including the National Targeting Center and Terrorist Screening Center;
- (vii) the development or adoption, as appropriate, of relevant processes, procedures, and practices needed to ensure compliance with applicable law and policy and to appropriately protect privacy, civil rights, and civil liberties, as well as sources and methods; and
- (viii) a projected schedule to reach both initial and full operational capability.

(h) Within 180 days of approval by the President of this implementation plan and every 180 days thereafter until its execution is complete, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency, in coordination with the Director of the Office of Management and Budget, shall, through the Assistant to the President for Homeland Security and Counterterrorism and using the NSPM-4 process, jointly submit to the President a report detailing the efforts made to execute this memorandum and the implementation plan.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

NOTE: An original was not available for verification of the content of this memorandum.

Categories: Communications to Federal Agencies : National vetting enterprise, strengthening efforts through Federal Government information support, memorandum.

Subjects: Civil rights : Privacy; Defense and national security : Intelligence; Homeland Security, Department of : National Vetting Center, establishment; Immigration and naturalization : Foreign nationals and refugees, U.S. admission policy; Terrorism : Counterterrorism efforts.

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